

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	Criminal Nos. 99-122, 00-126,
v.)	01-156 and 05-172
)	
JOSEPH DEES)	(ELECTRONICALLY FILED)

GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION FOR RELEASE PENDING TRIAL

AND NOW comes the United States of America, through its counsel, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Brendan T. Conway, Assistant United States Attorney for said district, and hereby respectfully submits its response to defendant's motion for release pending trial. For the reasons set forth below, the Court should deny defendant's motion.

The defendant was recently released from federal custody related to three different federal convictions, and he is a life-long con man who has twenty-nine prior convictions. He appears to be a drug addict, and he has virtually no history of legitimate employment.

Within weeks of his release from federal custody, the defendant was again committing fraud, using drugs, and violating numerous conditions of his release. The Court has scheduled a hearing on September 29, 2005 in which the Court will determine if the defendant did, in fact, violate the conditions of his release.

If the Court finds that the defendant violated the conditions of his release, the Court will, presumably, also sentence the

defendant at that time. If the defendant is sentenced based on violations of the conditions of his release, the defendant's motion for release pending trial will be moot because the defendant will be in custody serving that sentence.

Thus, it will only be necessary for the Court to address defendant's motion should the Court either conclude that the defendant did not violate the conditions of release or conclude that the defendant's supervised release should not be revoked. In that unlikely event, the Court's analysis will be governed by 18 U.S.C. § 3142(f), as the government has requested detention based on risk of flight.

The government contends that the defendant is a risk of flight based on his lengthy criminal history, his drug usage, his access to identification information, his failure to cooperate with the probation office, his lack of employment, and his lack of any known, steady address. All of these factors, particularly in combination, establish, certainly by a preponderance of the evidence, that the defendant is likely to flee if he were to be released.

WHEREFORE, for the reasons set forth above, the government requests that the Court deny the defendant's motion as moot if he

is sentenced based on the alleged violations of his supervised release, and, if not, deny the motion based on a finding that the defendant is a risk of flight.

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